IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 18769 of 2004

Between:

1 Shaik Sardar Hussain S/o Shaik Ahmad Hussain
B-Old-35 Shakkarnagar, Bodhan Nizamabad Distirct.
2 B.N.Leelavathi W/o J.Prabhakar Rao
H.No.B-Old-187, Shakkar Nagar, Bodhan Nizamabad Distirct.
3 Mohd.Sardar Ahmed S/o Mohd.Karamath Ali
H.No.2-4-64, Near Noor Masid, Bodhan Nizamabad Distirct.
4 Ahamad Hussain S/o Shaik Ahamad,
H.No.B-Old-171 Shakkarnagar, Bodhan , Nizamabad District
5 Mohd. Yunus S/o Mohd. Azeemuddin
B-Old, 228, Shakkarangar, Bodhan, Nizamabad District

..... PETITIONER(S)

AND

The Nizam Sugars Ltd., rep. by its Managing Director,
Shakkar Bhavan, Basheerbagh, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Mandamus directing the respondent herein to take appropriate steps forthwith for payment of terminal benefits such as 3 months notice period salary, provident fund, Gratuity, encashment of earned leave salary etc., and other monitory benefits which the petitioners are legally entitled pursuant to the decision taken in a meeting of NSF Employees Co-op. stores held on 19/10/2002 after liquidating the NSF stores ltd. and after dispensing with the services of the petitioners as employee of the said stores by duly declaring the action of the respondent in not taking any steps for payment of terminal benefits even after making series of representations by the petitioners as illegal, arbitrary and violative of Art. 14 of the Constitution of India.

Counsel for the Petitioners: MR.V.RAVI KIRAN RAO

Counsel for the Respondent: MR.N.VASUDEVA REDDY

The Court made the following :

ORAL ORDER:

The petitioners have filed this writ petition seeking a direction to the respondent to take appropriate steps forthwith for payment of terminal benefits such as salary for the notice period of three months, Provident Fund, Gratuity, Encashment of Earned Leave, etc.

The petitioners claimed to be the erstwhile employees of the Nizam Sugar Factories Employees Consumer Cooperative Stores (for brevity "N.S.F.E.C.C.S."). Owing to the privatisation of the Nizam Sugars Limited units, the Consumer Cooperative Stores was also liquidated with effect from 1.11.2002. It seems that a representation was given in the year 2003 to make payments with regard to the provident fund, gratuity, ex-gratia etc., but no action has been taken so far. Hence, the writ petition.

The learned counsel for the petitioners has contended that in spite of giving representation in the year 2003, no action has been taken by the respondent. Hence, he prays to issue a direction to the respondent to consider the representation said to have been given in the year 2003.

On the other hand, the learned counsel appearing for the respondent has contended that no representation as claimed by the petitioners is available with the respondent, and therefore, there is no possibility for the respondent to take any decision.

The factual matrix is not in dispute. N.S.F.E.C.C.S was liquidated with effect from 1.11.2002. It is not disputed before this Court that the

petitioners were the erstwhile employees of the said Cooperative Stores. According to them, certain amounts such as salary for the notice period of three months, gratuity, encashment of earned leave, etc. were due and the same shall have to be decided by the respondent. Since the respondent's counsel has disputed about the filing of an application before them, I deem it appropriate that a necessary direction can be given to the petitioners to file an appropriate application before the respondent within a period of one week from today and on filing of such application, the same shall have to be considered by the respondent in accordance with the rules and bye-laws and as per the resolution of the Committee, within a period of four weeks thereafter.

The writ petition is disposed of in terms of the above direction. There shall be no order as to costs.

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(K.C. BHANU, J.)

23rd November, 2004.

To

1. The Managing Director, Nizam Sugars Limited, Shakkar Bhavan, Basheerbagh, Hyderabad

2. Two C.D. copies

Note: Furnish copy in four days.

B/o

bcj